

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Dawn Lee Holland,

NO. C 09-01690 JW

Plaintiff,

v.

**ORDER VACATING CASE
MANAGEMENT CONFERENCE;
SETTING HEARING SCHEDULE FOR
CROSS-MOTIONS FOR SUMMARY
JUDGEMENT**

Lockheed Martin Corp. Long-Term
Disability Plan,

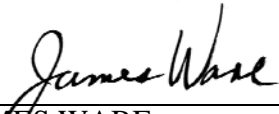
Defendant.

This case is scheduled for a Case Management Conference on August 31, 2009. Upon review of the parties' Joint Rule 26(f) Report (Docket Item No. 17), the Court finds that a conference is unnecessary at this time. Accordingly, the Court VACATES the August 31, 2009 Case Management Conference and ORDERS as follows:

- (1) The parties dispute whether discovery is warranted in this ERISA case. Plaintiff contends that limited discovery should be permitted to resolve the issue of the "standard of review." (See Joint Rule 26(f) Report at 4.) Defendant contends that the administrative record is complete and thus, discovery is unwarranted. (Id. at 5.) The Court finds to the extent that there is a dispute regarding the proper "standard of review," it is a legal question for the Court to decide. Accordingly, the Court DENIES Plaintiff's request for discovery at this time.
- (2) In their Joint Report, the parties proposed filing separate motions for summary judgment on the proper standard of review and the merits respectively. The Court

1 finds such a staging of motions unnecessary. Accordingly, the Court sets a hearing
2 date for the parties' anticipated cross-motions for summary judgment based on the
3 administrative record. In their respective motions, the parties may argue for the
4 proper standard of review. The hearing is set for **February 22, 2010 at 9 a.m.** The
5 parties shall file and notice their motions in accordance with the Civil Local Rules of
6 the Court.

7
8 Dated: August 27, 2009



JAMES WARE
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Adrienne Clare Publicover Adrienne.Publicover@WilsonElser.com

3 Catha Alison Worthman cworthman@lewisfeinberg.com

4 Daniel Mark Feinberg dfeinberg@lewisfeinberg.com

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6 **Dated: August 27, 2009**

Richard W. Wieking, Clerk

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8 **By: /s/ JW Chambers**

Elizabeth Garcia

Courtroom Deputy

United States District Court

For the Northern District of California

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